2. Tandem Switching

One of the "costs" that was identified in CC Docket 91-213 as being in the TIC were those associated with tandem switching. Specifically, 80 percent of the interstate tandem switching *revenue requirement* was allotted to the TIC.[22] Importantly, it was the revenue requirement, not costs, that were allocated. Indeed, as the State commissions followed the FCC in implementing local transport restructure, they found that the ILECs' long run incremental tandem switching costs were far below even the rates for tandem switching set to cover only 20 percent of the interstate tandem switching revenue requirement.[23] Accordingly, while the TIC may include up to 80 percent of what was once the tandem switching revenue requirement, it is highly doubtful that any of the TIC should be allocated to tandem switching on a forward-looking cost basis.

During its *Local Transport* proceeding in the early 1990s, the Commission declined to require, or even examine, ILEC cost studies in reaching its decision, stating that time did not permit such review. Thereafter, however, several state commissions did require ILEC cost studies for transport, including tandem switching. Those studies uniformly showed the actual cost of tandem switching for transport to be far below even the 20 percent of the revenue requirement assigned to TST. The remaining revenue requirement consisted of overload and subsidies arbitrarily placed on tandem switching during the "equal charge rule" era when

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[22] *Notice* ¶ 102.

[23] *See, e.g. Enforcement Petition*, at pp. 27-29 (BellSouth's direct costs of providing tandem switching 26-40% of tandem switching rate). CWI, which was a member of the five IXC coalition participating in state commission local transport restructure proceedings in numerous states around the country observed similar relationships between the tandem switching rate and tandem switching costs for several other RBOCs.

there was no unfair competitive impact caused by such non-cost based rates. Now, more than three years later, the Commission should not again ignore actual cost information and fail to reform the tandem switching revenue requirement appropriately. Those amounts should not be imposed on tandem switching.

3. Multiplexing

CC Docket 91-213 addressed multiplexing, but only in a limited way. While DS3:DS1 multiplexing generally was considered in that proceeding, the FCC did not include the cost of DS1:DS0 multiplexing needed to interface T1 trunks to analog switches or other switches that cannot accommodate T1s.[24]

As many as one-fourth of all RBOC switches may be of this nature. (*Notice* ¶ 106.) This type of multiplexing is a cost imposed on the ILECs by DTT users, and so these costs should be allocated to DTT rate elements as appropriate. Alternatively, a DS1:DS0 multiplexing element should be developed for direct trunked transport users.

4. DTT Initial Rates

As explained in the *Notice*, DTT rates were established in relation to special access rates as of September 1, 1992. (*Notice* ¶ 107.) However, as the *Notice* acknowledges, there is evidence that special access, on an averaged basis, is less costly than DTT. Specifically, special access is confined, for all practical purposes, to high-volume, low-cost urban areas. DTT, on the other hand, while prevalent in such areas, is also used in more costly, less densely populated areas. Accordingly, it seems likely that certain costs associated via

[24] *Local Transport Order*, 7 FCC Rcd at 7031-32.

serving these non-urban areas via DTT are reflected in the TIC. These costs must be allocated directly to DTT services.[25]

5. Central Office Equipment Maintenance

According to USTA, the TIC includes costs associated with central office equipment maintenance which are more appropriately allocated to local switching. (*Notice* ¶ 109.) If these costs are not related to facilities-based transport, CWI believes they should be moved out of the TIC. Furthermore, to the extent they are NTS costs, they should be recovered as part of the per-line (per port) local switching costs advocated by CWI above.

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Finally, the *Notice* inquires whether ILECs should be able to deaverage the TIC once the charge is purged of inappropriate costs. (*See Notice* ¶ 113.) CWI believes that TIC deaveraging would be acceptable provided it is based upon differences in the remaining costs. Of course, this begs the question of whether the ILECs should be allowed to recover revenue via the TIC to ensure revenue neutrality in a regulatory environment which is intended to be devoid of implicit subsidies. As CWI explained above, in the nascent competitive environment, the ILECs should not be so entitled.

If the FCC nonetheless permits some form of TIC on a forward-going basis and allows the ILECs to deaverage rates, the Commission should ensure that all ILECs deaverage in a consistent manner and using geographic zones demarcated by actual cost differences. For example, zones must be defined based upon actual cost differences for an efficient local

[25] CWI anticipates that the initial round comments will elucidate this issue more clearly. CWI will address its position on this matter more fully in replies.

exchange carrier using forward-looking technology. Under this framework, some study areas may not include all zone types.

Furthermore, the FCC should require zones to be defined based on cost differences, so as to reduce the degree of averaging within zones. Thus, an entire metropolitan area should not define a zone when there are distinct cost differences within the metro area. As a result, more (and possibly different) zones than the three permitted in special access interconnection should be required. Additionally, CWI believes that the degree of price differentiation in the ILECs' zone pricing plans do not reflect the degree of cost differences incurred in providing service. Rather, within each zone, there are areas presenting significant cost differences that are "averaged" within the zone. If the zones are defined so as to minimize true cost differences, then access customers, and eventually end user subscribers, will not realize the full benefits of deaveraging. The territory falling within each of these newly defined zones should be based upon cost-characteristics determined within fairly small study areas, so as to minimize "residual" averaging.

F. Signalling

The *Notice* inquires whether the cost of SS7 signalling transport should be recovered on a stand-alone per-query basis or remain bundled with other costs, as it is today. (*Notice* ¶ 131.) CWI submits that unbundling the recovery of SS7 signalling transport on a usage-basis will be more cost-based and thus pro-competitive.[26]

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[26] Additionally, for consistency's sake if signal switching can be measured on a per-query basis in a way that is *not* unduly burdensome, signal switching costs could also be recovered on a per-query basis.

In contrast, charges for signal transport should not be made distance sensitive. (*Notice* ¶ 131.) IXCs have never selected locations of points of presence on the basis of where STP/SCPs were situated. If signalling transport costs were to be recovered on a distance sensitive basis, IXCs could therefore be incented to make uneconomic reconfigurations. In this, and other aspects of the access charge rate structure, such inefficient reconfigurations, driven only by the access charge rate structure, should not be encouraged.

III. THE PRESCRIPTIVE APPROACH TO DEREGULATION IS SUPERIOR TO THE MARKET-BASED APPROACH (¶¶ 161-240)

A. The Prescriptive Approach Is a More Certain and Less Contentious Path to the Competitive Outcome

CWI supports the FCC's overriding goal of fostering competition for access services so that, eventually, the marketplace will evolve to the point that price regulation is no longer necessary. CWI also agrees with the Commission that rate structure modifications are only a first step toward achieving these objectives. In addition, more comprehensive changes are necessary in order to usher in a robust access marketplace.

The *Notice* outlines two alternative models for long-term access charge reform, a marketplace approach and a prescriptive approach. Under a market-based approach, the FCC would rely upon market pressure to move access prices to direct cost as certain competitive thresholds are crossed. Once each threshold is reached, ILECs would receive additional pricing flexibility. (*Notice* ¶¶ 161-217.) In contrast, under the prescriptive approach, ILECs would be required to move access charges to efficient forward-looking, cost-based levels without reference to external circumstances, such as the level of market penetration by new competitors. Affected LECs would have limited pricing flexibility under the prescriptive approach until they demonstrated actual competition. (*Id.*, ¶¶ 218-40.)

CWI, for the reasons detailed below, strongly urges the adoption of a prescriptive approach:

As an initial matter, CWI believes that the prescriptive approach is superior because it guarantees the pace and direction of changes in price regulation. Once a costing methodology is adopted, and initial prices are based thereon, CWI believes that a transition should move access rates to the cost-based levels over a reasonably short period of time, say no more than five years. When such a regulatory framework is set in motion, the ultimate goal should be clear to all involved, as well as the timeframe in which it will be achieved.

In contrast, the market-based approach would shroud the industry in uncertainty and potentially endless contention. For example, the *Notice* contemplates "triggers" that signal the end of Phases I and II of the market-based approach, respectively. Phase I would be achieved when an "incumbent LEC has opened its network by removing the most immediate barriers to competitive entry." (*Notice* ¶ 163.) The barriers would be identified but their achievement subject to interpretation. Phase II would end when an "actual competitive presence has developed in the marketplace," pursuant to several criteria. (*Notice* ¶ 164.)

Both Phases I and II, as outlined in the *Notice*, are open-ended. In large measure, the pace of implementation is left up to the ILECs. Whether the criteria will have been achieved will most certainly be the subject of contentious and protracted debates. Exacerbating this situation, under the market-based approach deregulation will progress at different paces in various operating regions, states, or even smaller areas within states. Thus, this approach could lead to a patchwork of geographic-dependent determinations and regulatory entanglement far into the future.

Further, implementation of the 1996 Act, especially Section 251 (CLEC interconnection and incumbent LEC obligations) renders the state of the marketplace even murkier. The implementation of the Act's local competition provisions has been hampered by the stay of the *Local Competition Order* by the Eighth Circuit U.S. Court of Appeals. The decision reached in the Eighth Circuit may very well require additional FCC proceedings on remand, keeping the regulatory environment unsettled for months or years to come.

Inextricably interwoven with the fate of the *Local Competition* proceeding are state arbitrations of CLEC-ILEC interconnection disputes. While decisions have been forthcoming in these proceedings since October of last year, many of them are interim in nature due to the State commissions' continued examination of the ILEC's cost studies. For example, in Texas, Southwestern Bell's and GTE's cost studies are being examined pursuant to a schedule which, if played out, will not result in a decision until the latter part of this year.

As the above discussion indicates, the market-based approach, despite its name, will be subject to considerable on-going uncertainty and regulatory involvement. Indeed, while the FCC's role in the initial phases of the prescriptive approach may be significant, in the long-run the market-based approach could very well lead to far more regulatory intervention, and over a longer period, with less certainty of successful implementation.

B. Initial Rates Under a Prescriptive Approach Should Be Set at TSLRIC-Based Rates

The Commission should require rates under the rate structure adopted in this proceeding[27] to be based upon a total service long run incremental cost, or TSLRIC, methodology. The Commission in its *Local Competition* docket concluded that a total element long run incremental cost, or TELRIC, methodology was the appropriate measure of efficiently-incurred, forward-looking direct costs of unbundled network elements.[28] In addition, the Commission determined that setting rates for unbundled network elements at TELRIC plus a reasonable allocation of forward-looking joint and common costs would provide the best approximation of the competitive outcome for network elements.[29] Although the FCC's pricing rules have been stayed pending judicial review by the Eighth Circuit, numerous state commissions around the country have adopted the same or very similar costing and pricing standards for network elements in resolving arbitrations between ILECs and new entrants, legitimizing the FCC's approach from a substantive perspective.

As the FCC noted in its *Local Competition Order* and in the *Notice*, the TELRIC methodology and the TSLRIC methodology are essentially the same, the critical difference being the object of the study: network elements are examined in the case of TELRIC, and

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[27] Rates under the existing structure should not merely be reinitialized, because the structure contemplated in the *Notice* may create entirely new elements. For example, local switching may be bifurcated into both a usage-based rate and a flat-rate, and a new flat-rate PSL may be created (and the old CCL charge eliminated).

[28] *Local Competition Order*, ¶ 672.

[29] *Id.* ¶ 682.

services in the case of TSLRIC.[30] Because CWI believes that a key objective in resetting access rates is to simulate the competitive outcome, CWI urges the FCC to set initial rates for access *services* under a prescriptive approach at TSLRIC plus a reasonable allocation of forward looking joint and common costs.

CWI recognizes that, were the ILECs to start from scratch in preparing TSLRIC cost models and studies, the job facing the FCC under a prescriptive approach might be absolutely daunting. While not trivializing the significant amount of work that would remain under CWI's proposal for both carriers and the FCC (and perhaps the states), CWI believes that the ILECs could take their TELRIC cost studies for common line, switching, ports, and transport and expeditiously prepare TSLRIC studies -- to the extent they have not done so already.[31] Obviously, the ILECs' TELRIC studies will provide a useful check for the validity of their TSLRIC studies, albeit the two will not lead to identical results (for example for tandem switching) because the two methodologies at least theoretically, include different treatment of joint and common, as well as retail-related, costs.[32]

Once TSLRIC-based rates are established, the FCC should then articulate a transition mechanism from "current rate levels"[33] to cost-based levels developed under the TSLRIC

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[30] *Id.* ¶ 678.

[31] CWI understands that many of the TELRIC studies used in state arbitrations are based upon TSLRIC studies of recent vintage. What CWI proposes is similar: using TELRIC studies, in cases where TSLRIC studies have not been produced, as a starting point for determining TSLRIC.

[32] *See id.* ¶ 678.

[33] Before the transition begins, the fraction of current rates that is identified as universal service fund subsidy must be separated from those rates to satisfy the results of the *Universal*
(continued...)

methodology. The transition period should not exceed five years and it should be done in equal, incremental steps.[34] CWI believes that a five-year approach based upon a 20%-per-year increase of the X-factor to its new level (*Notice* ¶¶ 232, 240) presents a generally-acceptable solution to transition to a forward-looking PCI.[35]

This transition to TSLRIC-based rates is easy to understand and is administratively straightforward, once the more difficult work of establishing TSLRIC-based rate levels under the new structure is completed. Increasing the X-factor so as to bring rates in line with a TSLRIC-based result also helps by reducing the amount of regulatory entanglement required under the prescriptive access reform approach.

IV. THE FCC'S TREATMENT OF EMBEDDED COSTS THAT CANNOT BE EXPLICITLY IDENTIFIED AND RECOVERED VIA A NEW COMPETITIVELY-NEUTRAL UNIVERSAL SERVICE MECHANISM SHOULD ALLOW FOR CONTINUED RECOVERY, BUT ONLY DURING A WELL-DEFINED TRANSITION TO FORWARD-LOOKING TSLRIC-BASED RATES (¶¶ 247-59)

As explained above, CWI believes that rates under the new access structure should be reset based upon forward-looking TSLRIC costs plus a reasonable allocation of forward-looking, efficiently incurred joint and common costs. This should be accomplished over a

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[33](...continued)
Service proceeding. Once current rate levels undergo this adjustment, they can serve as the basis for initial rates in the transitional framework.

[34] However, as explained in more detail below, CWI submits that price cap ILECs' *terminating* access charges should be set at TSLRIC-based rates *immediately* because price cap ILECs exert substantial market power over terminating access over which the party paying access charges -- the IXC -- has little or no influence.

[35] In order to justify above-cap filings, ILECs should be required to make their demonstrations of cost based upon a TSLRIC methodology, without reference to embedded costs, except to the extent that the ILECs are still within the transition period and part of the X-factor can be attributed to the recovery of such embedded costs.

transition from "current rate levels," adjusted to exclude the universal service-related costs, as described above. The transition period should not exceed five years, after which the ILECs will have to seek other sources made available by the 1996 Act for recovery of these embedded costs (and costs that might be associated with under-depreciation). Because, under CWI's proposal the X-factor would be increased incrementally during the period of the transition, the RBOCs would presumably have the opportunity to recover these embedded costs not explicitly identified with and recovered via a new universal service method from long distance services, cable TV services, information services, and manufacturing services. The graduated adjustment of the X-factor on an annual basis in order to move toward TSLRIC-based rates should, in CWI's view, be the only opportunity the ILECs receive to recover embedded costs through access charges.

No opportunities in addition to those provided by the "inflated" X-factor during the transition period are required for the ILECs to recover any alleged embedded non-explicit universal service costs or depreciation reserve deficiency. The RBOCs have been aware for several years of the imminence of competition and the requirement that rates would have to move to forward-looking levels. Accordingly, it would be inappropriate for ILECs to have the ability to impose a charge on all IXCs or telecommunications carriers to recover these embedded costs forever. Such a measure would, in effect, be a further attempt to provide the ILECs with some form of revenue neutrality or income guarantee. At the very least, any opportunity the ILECs are given to recover embedded costs not explicitly identified with universal service must be subject to a definite phase-out pursuant to a clear and definite (read "unconditional") schedule.

V. PRICE CAP ILECs' PROVISION OF TERMINATING ACCESS WARRANTS SPECIAL TREATMENT (¶¶ 271-76)

The *Notice* inquires whether special regulation is required over terminating access provided by price cap ILECs. (*Notice* ¶ 273.) CWI submits that price cap ILECs do exercise greater market power over terminating access, as opposed to originating access, which IXCs currently have little opportunity to influence. This situation will for all practical purposes persist into the future, even after originating access is subject to effective competition. Accordingly, CWI recommends the following treatment of terminating access rates:[36]

* Terminating access rates for price cap ILECs should be established at TSLRIC plus a reasonable allocation of forward-looking, efficiently incurred joint and common costs. The implementation of TSLRIC-based pricing for price cap ILEC terminating access should be immediate. Any excessive or inappropriate costs previously recovered through terminating access inconsistent with rates set under a TSLRIC-based pricing methodology should be eliminated.

* Because the price cap ILECs' ability to exercise market power over terminating access will continue indefinitely, even after effective competition exists for originating access, TSLRIC-based pricing should continue in effect indefinitely, until it can be convincingly demonstrated that price cap ILECS have lost this market power.

VI. CONCLUSION

For the foregoing reasons, the Commission should reform access charges by:

- Replacing the CCL charge with a flat-rate PSL charge assessed against IXCs on a pre-subscribed line basis.

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[36] Under the *Notice*'s proposal to require price cap ILECs to recover Common Line and non-traffic sensitive local switching costs through flat rate charges, the only terminating access charges at issue for price cap ILECs are the traffic sensitive charges that would apply to traffic-sensitive Local Switching and Tandem Switched Transport.

- Bifurcating local switching charges such that non-traffic sensitive costs are recovered through non-traffic sensitive charges.

- Reducing the TIC by removing misallocated costs, and then setting a date certain by which the TIC will be phased out altogether.

- Adopting a prescriptive approach based on a five-year transition to bring access charges in line with TSLRIC plus a reasonable allocation of joint and common costs.

In addition, the Commission should not remove the SLC ceilings for multi-line-business and multiple-line residential customers. Nor should the Commission impose a per-call set-up local switching charge or permit peak/off-peak pricing for either local or tandem switching. Finally, the Commission should retain the current pricing options for Tandem Switched Transport.

CWI strongly believes that the changes recommended above will promote competition in the interexchange market, as well as in local access and local exchange markets, benefitting new entrants as well as consumers. The public interest requires these changes to be implemented promptly.

Respectfully submitted,

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Dated: January 29, 1997

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of January, 1997, a true copy of the foregoing COMMENTS OF CABLE & WIRELESS, INC., have been provided via hand delivery to the following:

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